Tiffany (NJ) Inc. et al v. eBay Inc. Doc. 21

Buchwald, J.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TIFFANY (NJ) INC. and TIFFANY AND COMPANY, Plaintiffs, v. eBAY INC., Defendants.	04 Civ. 4607 (NRB) ECF Case

STIPULATION AND ORDER REGARDING PRODUCTION OF PRIVILEGED DOCUMENTS

WHEREAS, in connection with producing documents in response to the First Request for Production of Documents propounded by plaintiffs Tiffany (NJ) Inc. and Tiffany and Company (collectively, "Tiffany"), defendant eBay Inc. ("eBay") withheld documents on the ground of the attorney client privilege and work product doctrine;

WHEREAS, Tiffany made an application to the District Court challenging eBay's invocation of those privileges, and the District Court issued a letter ruling dated August 3, 2005 (the District Court's Ruling") after reviewing certain documents that Tiffany had designated as exemplars; and

WHEREAS, in response to the District Court's Ruling, eBay has determined to produce certain documents (the "Documents") that it had heretofore withheld on the ground of the asserted privileges.

IT IS HEREBY STIPULATED AND AGREED that:

1. In order to expedite production of the Documents, eBay may designate all of the Documents as Restricted Materials in accordance with the Confidentiality

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Stipulation and Order entered herein, provided that eBay shall promptly withdraw such designation upon the request of Tiffany with respect to any Documents that does not fall within the definition for such materials.

2. To the extent that eBay later concludes that any of the Documents are actually privileged, eBay does not waive the right to make such an assertion, provided that, if Tiffany disagrees with such assertion, the burden will be on eBay to make a motion to the District Court to retrieve any such Documents, for which motion eBay shall bear the burden of proof.

3. This Stipulation shall apply only in this action, and eBay does not waive the right to assert outside of and unrelated to this action that such Documents are privileged and that the privilege attaching to them has not been waived.

Dated: New York, New York
August 25, 2005

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So Ordered.

Dated: ~~August~~ September 6, 2005
New York, NY

[signature]

Honorable Naomi Reice Buchwald
United States District Judge